

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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In re: BAIR HUGGER FORCED AIR  
WARMING PRODUCTS LIABILITY  
LITIGATION

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MDL No. 15-2666 (JNE/FLN)

This Document Relates to All Actions

**ORDER REGARDING MDL LEADERSHIP  
STRUCTURE**

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Pursuant to the Court's direction in PTO No. 1, counsel seeking leadership have met and conferred regarding the proposed organizational structure. Based on review of Defendants' Submission Regarding Leadership Structure and Plaintiffs' Report and Recommendation Regarding Leadership Structure, together with representations and introductions made to the Court during the MDL status conference on February 18, 2016, the Court hereby orders the following organizational structure:

**1) Plaintiffs Leadership Structure**

**Co- Lead Counsel:**

Ben W. Gordon, Jr.  
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The duties of the Co-Lead Counsel, whose members will be ex-officio members of the Plaintiffs' Executive Committee, are as follows:

- i. Determine (after consultation with other members of Plaintiffs' Executive Committee and Plaintiffs' Steering Committee and other co-counsel as may be appropriate) and present (in briefs, oral argument, or such other fashion as may be appropriate, personally or by a designee) to the Court and opposing parties, the position of the Plaintiffs on all matters arising during pretrial proceedings;
- ii. Coordinate the initiation and conduct of discovery on behalf of Plaintiffs consistent with the requirements of the Federal Rules of Civil Procedure relating to discovery and the terms of the Deposition Protocols adopted in this litigation;
- iii. Chairs of Committees will be appointed by Co-Lead Counsel. Co-Lead Counsel members are "ex officio" co-chairs of the various committees with the designated chairperson(s) and have equal authority to make decisions for those committee assignments. It is anticipated that further appointments to Plaintiff Committees or the addition of further subcommittees will be approved, as necessary, as the litigation progresses by the Co-Lead Counsel.
- iv. Conduct settlement negotiations on behalf of Plaintiffs, but not enter binding agreements except to the extent expressly authorized;
- v. Delegate specific tasks to other counsel in a manner to ensure that pretrial preparation for the Plaintiffs is conducted effectively, efficiently, and economically;
- vi. Enter into stipulations with opposing counsel as necessary for the conduct of the litigation;
- vii. Prepare and distribute to the parties periodic status reports;

- viii. Maintain adequate time and disbursement records covering services of designated counsel and establish guidelines, for approval by the Court, as to the keeping of time records and expenses;
- ix. Monitor the activities of co-counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided;
- x. Perform such other duties as may be incidental to proper coordination of Plaintiffs' pretrial activities or authorized by further Order of the Court; and
- xi. Submit, if appropriate, additional committees and counsel for designation by the Court.

The members of Plaintiffs' Executive Committee set forth below shall consult with and be led by the Plaintiffs' Co-Lead Counsel in coordinating all Plaintiffs' pretrial activities and in planning for and conducting trial of these cases, and the potential resolution of these matters:

**Plaintiffs' Executive Committee**

Anne Andrews  
Andrews & Thornton, LLC  
2 Corporate Park, Suite 110  
Irvine CA 92606  
(949) 748-1000

David W. Hodges  
Kennedy Hodges, LLP  
711 W. Alabama Street  
Houston, TX 77006  
(713) 523-0001

Christopher L. Coffin  
Pendley, Baudin & Coffin, LLP  
1515 Poydras Street, Suite 1400  
New Orleans, LA 70118  
(504) 355-0086

Behram V. Parekh  
Kirtland and Packard, LLP  
2041 Rosecrans Avenue, Third Floor  
El Segundo, California 90245  
(310) 536-1000

## **Liaison Counsel**

David Szerlag  
Pritzker Olsen  
Plaza Seven Bldg., Suite 2950  
45 South Seventh Street  
Minneapolis, MN 55402  
Phone: (612) 338-0202

The duties of Liaison Counsel to the District of Minnesota are defined as:

- i. Service List: Maintain and distribute to co-counsel and to Defendants' Lead Counsel an up-to-date service list;
- ii. Accept Service: Receive and, as appropriate, distribute to co-counsel Orders from the Court and documents from opposing parties and counsel;
- iii. MDL Case File & Document Depository: Maintain and make available to co-counsel and other Plaintiffs' counsel at reasonable hours a complete electronic file of all documents served by or upon each party;
- iv. Monitor and report to the Court regarding status of various state court proceedings, including particularly the litigation coordinated before Judge Leary in Ramsey County;
- v. Organize and submit necessary documents to both the Clerk of Court and the Court; and
- vi. Assist the Co-Lead Counsel and the Court in promoting a just and efficient MDL.

The members of Plaintiffs' Steering Committee set forth below shall consult with and be led by the Plaintiffs' Co-Lead Counsel and the Plaintiffs' Executive Committee in coordinating all Plaintiffs' pretrial activities and in planning for and conducting trial of these cases, and the potential resolution of these matters.

**Plaintiffs' Steering Committee**

Paula Bliss  
Kelly, Bernheim & Dolinsky, LLC  
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Boston, MA 02166  
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Kyle Bachus  
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DeGaris Law Group  
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**2) Defendants' Leadership Structure**

**Defendants' Lead Counsel**

Jerry W. Blackwell  
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These appointments are of a personal nature. Accordingly, the above appointees cannot be substituted by other attorneys, including members of the appointee's law firm, except with prior approval of the Court.

DATED: February 23, 2016

s/ Joan N. Ericksen  
JOAN N. ERICKSEN  
United States District Court Judge